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appear to be plainly the duty of the agent to give just such information as that upon which the holder of the spurious stock has relied, since one of the chief purposes for which a corporation is organized is to enable the shares to be transferred freely. The very essence of such a certificate is an assurance to the world that it will be transferred on the books of the company upon the surrender of the certificate. If a bill of lading is to be regarded simply as a receipt to enable the consignor to trace and receive his goods as an incident of transportation, a representation by the agent to third persons would be outside the scope of the employment and would not bind the principal. See *C. N. O. & T. P. Ry. Co. v. Citizens' National Bank*, 56 Oh. St. 351. But in view of the widespread use of the bill of lading as a symbol of property, it seems better to regard it as analogous to a negotiable instrument, relied upon by third parties in much the same way as stock certificates. Professor Vance's conclusions that the principal should be liable in both classes of cases seem, accordingly, correct.

One limitation must, however, be made to the theory that the rules governing the principal's liability for deceit by the agent are the same as those which govern liability for any other tort. It should be noticed that deceit is an anomalous tort, since the situation created resembles that created when the agent makes a contract with a third party in that the latter acts upon a representation of the agent, and thus in a sense co-operates to cause the damage. See HURFCUT, *AGENCY*, 2d ed., 12, 13. Consequently, though the question of the principal's liability for the agent's deceit does not depend primarily upon authority conferred as in contract, yet if it appears that the third party knew that the principal had forbidden such a representation, he should not be allowed to hold the principal, because he is not dealing with the agent as agent, and hence is not deceived. See *N. Y. Life Ins. Co. v. Fletcher*, 117 U. S. 519.

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**NATURALIZATION.** — An article by Henry Stockbridge is called forth by the recent Act of Congress denying citizenship to aliens of anarchistic inclinations, 32 U. S. Stat. at L. 1222 (March, 1903), and by the rulings of two state courts, — one in New York, which declared that it would naturalize nobody unable to speak English, and one in Pennsylvania refusing to admit to citizenship anybody who could not prove that he had abstained from participation in the coal-strike riots. *The Law of Naturalization*, by Henry Stockbridge. 17 Green Bag 644 (Nov. 1905); 13 Am. Lawyer 419 (Oct. 1905). The author summarizes the history and present state of the law of naturalization, comments on its lax enforcement, and concludes that neither the statute nor the rulings above referred to were really extensions of the pre-existing law. Congress, under the clause of the Constitution giving it power to establish a uniform rule of naturalization, has enacted that every applicant for admission should prove that during the five years of his probation "he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the peace and happiness of the same." U. S. Rev. Stat. § 2165. It is to be noticed that the test in the revised statutes is objective. The applicant must prove that he has *behaved* as one possessing the attributes mentioned. Mr. Stockbridge is, therefore, not strictly accurate when he says that the statute requires the applicant actually to possess such attributes. It is true that in a Texas state court an applicant was rejected because his socialistic views as to the ownership of property were thought inconsistent with the Constitution, though no objection was raised to his behavior. See *Ex parte Sauer*, 81 Fed. Rep. 355 (note). This case is, however, inconsistent with the result of a later case in a United States district court in the same state. See *Re Rodriguez*, 81 Fed. Rep. 337. There an honest, industrious, and well-behaved Mexican was naturalized, though he could neither read nor write, and was "lamentably ignorant." The court said of him that "by his daily walk . . . he . . . emphasized his attachment to the principles of the Constitution," thus plainly abandoning the subjective test. The statute of 1903 made the distinct advance of forbidding

admission to those disbelieving in all organized government, whatever their behavior might be.

So also in the case where the applicant was required to prove non-participation in a coal riot, it is questionable whether an extension of the law has not been made. A man guilty of committing a felony has been held not a person of good moral character and attached to the Constitution. *Re Spencer*, 52 Saw. (U. S. C. C.) 195. In the same case there was a *dictum* that repeated lesser breaches of the law would have the same effect; but a single misdemeanor has apparently never before excluded a man from citizenship. Surely one instance of yielding to the common propensity for doing what the crowd does, is not necessarily behavior incompatible with good character and a belief in the Constitution.

Still more doubtful is the ruling that no one shall be naturalized unless he can speak English. That such persons would, as a rule, be undesirable citizens is true, but that they should be excluded under the statute is not clear. Obviously such a person may have "behaved" as required by the statute, — may even be of good moral character, and may have, in fact, a greater knowledge of and belief in the principles of the Constitution in French or Hebrew than most successful English-speaking applicants. Why not, then, let him prove it if he can, and enjoy the privileges which the statute offers him, till the law is changed?

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- "AGENCY BY ESTOPPEL": a Reply. *Walter Wheeler Cook*. 6 Columbia L. Rev. 34. See 18 HARV. L. REV. 400.
- ARE DEFECTIVELY INCORPORATED ASSOCIATIONS PARTNERSHIPS? *Francis M. Burdick*. 6 Columbia L. Rev. 1. See *supra*.
- CASE OF NORTHERN ASSURANCE COMPANY *v.* GRAND VIEW BUILDING ASSOCIATION, 183 UNITED STATES REPORTS, THE. *Ashley Cockrill*. Containing a good collection of authorities on the question of whether or not an insurance company is bound by provisions not in the policy. 13 Am. Law. 524.
- CONSTITUTIONAL PROVISIONS AGAINST FORCING SELF-INCRIMINATION. *Henry T. Terry*. 15 Yale L. J. 127.
- DIVORCE IN THE TRANSVAAL. *C. F. Rorke*. Analyzing the rulings of the South African courts in regard to the law of domicile in divorce proceedings, and discussing malicious desertion as a ground for divorce. 22 S. African L. J. 399.
- ENLARGEMENT OF A LIFE ESTATE BY AN ACCOMPANYING POWER OF DISPOSITION IN FEE. *Anon.* Full collection of authorities. 62 Cent. L. J. 25.
- FEDERAL REGULATION OF QUARANTINE. *W. E. Walz*. Maintaining that Congress has control over quarantine, so far as interstate and foreign relations are concerned, under the commerce clause of the Constitution. 4 Mich. L. Rev. 189.
- INTERESTS DETERMINABLE ON BANKRUPTCY. *Anon.* Discussing how far clause determining debtor's interest in the event of bankruptcy shall be good against creditors. An extensive review of English cases. 28 L. Stud. J. 8.
- ISSUE OF CORPORATE STOCK FOR PROPERTY PURCHASED — A NEW PHASE. *Leonard M. Wallstein*. 15 Yale L. J. 111.
- \*LACK OF UNIFORM CONSTRUCTION OF SIMILAR LANGUAGE IN STATE AND FEDERAL CONSTITUTIONS. *Walter H. Saunders*. Pointing out the inability of the Supreme Court to reach cases where a state court declares a state statute unconstitutional. 1 (The) Law 298.
- LAW AS A CULTURE STUDY. *Edson R. Sunderland*. 4 Mich. L. Rev. 181.
- LAW OF NATURALIZATION, THE. *Henry Stockbridge*. 17 Green Bag 644. See *supra*.
- LIABILITY FOR THE UNAUTHORIZED TORTS OF AGENTS. *William R. Vance*. 4 Mich. L. Rev. 199. See *supra*.
- MOST NOTEWORTHY CHANGES IN STATUTE LAW ON POINTS OF GENERAL INTEREST, THE. (Concluded.) *Henry St. George Tucker*. 13 Am. Law. 536.
- NOTES ON THE HISTORY AND DEVELOPMENT OF THE ROMAN-DUTCH LAW. XXXIII. *J. W. W.* Letting and hiring. 22 S. African L. J. 365.
- PREPARATION FOR THE BAR. *Lawrence Maxwell*. 38 Am. L. Rev. 822.
- RECENT DEVELOPMENT OF THE DOCTRINE IN *TULK v. MOXHAY*, A. *Anon.* Commenting upon a case discussed in 18 HARV. L. REV. 608, and taking a view opposed to the one there advocated. 50 Sol. J. 123.
- RELATION TO EACH OTHER OF DIFFERENT ADMINISTRATORS OF THE SAME DECEASED, THE. *Thaddeus D. Kenneson*. Maintaining that the fiction that an administrator continues the *persona* of the deceased is equally applicable where different administrators are appointed in several states. 6 Columbia L. Rev. 15.

REVIEW OF LEGISLATION OF YEAR 1904-1905. *Henry St. George Tucker.* 39 Am. L. Rev. 801.

RIGHT OF ALIENS UNDER AMERICAN STATUTES GIVING A CAUSE OF ACTION FOR DEATH. *Anon.* Discussing the conflict of authority as to whether the provisions of Lord Campbell's Act confer a right of action on aliens, and contending that they should. 1 (The) Law 358.

SPIRIT OF THE COMMON LAW. *Roscoe Pound.* 18 Green Bag 17.

SYSTEM OF PROBATE COURTS IN CONNECTICUT, WITH SOME SUGGESTIONS FOR ITS IMPROVEMENT, THE. *James Kingsley Blake.* 15 Yale L. J. 131.

## II. BOOK REVIEWS.

STUDIES IN THE CIVIL LAW, and its Relations to the Jurisprudence of England and America, with References to the Law of our Insular Possessions. By William Wirt Howe. Second edition. Boston: Little, Brown, and Company. 1905. pp. xii, 390. 8vo.

Judge Howe begins by saying: "The American Lawyer of to-morrow should study the Civil Law for four reasons:"

(1) Because modifications of that law obtain at present in Cuba, Porto Rico, and the Philippines; in Louisiana, California, and New Mexico; in Lower Canada, Mexico, Central America, and South America. All of these are newly opened fields, as to the laws and customs in which capitalists from the older states seeking investment need advice.

(2) Because one never knows one's own system thoroughly until one places it in the parallel column and compares it line by line with another system.

(3) Because the Common Law owes large debts to Justinian, and, as he knows best the value of words who knows their Latin origin, their history, and their component parts, so he knows best the meaning and value of law who knows its foundation and is familiar with its growth.

(4) Because, by studying the old Civil Law, we lose something of our American arrogance. The discovery that not we but Gracchus first declared that a statute should contain but one object; that Paul wrestled with the subject of Contributory Negligence and evolved something very similar to the "last-clear-chance" doctrine; that the Hadley *v.* Baxendale ruling was evolved and boiled down into the terse phrases of a codal article some centuries before that case: this is striking evidence of our debt to the jurisconsults.

Judge Howe's book presents the cullings made from a broad and thoughtful reading of the history of Rome and of its laws. Beginning with Pius Aeneas, it traces the development from the individual into the family, from the family into the *gens*, and from the *gens* into the city, showing the growth of the law as co-equal with that of the population. The city was at first governed by the *Jus Civile*, a law which the original *gentes*, who at first constituted the entire free population, created to apply to themselves alone. As the city's commerce increased, and foreign merchants immigrated thither, the *Praetor Peregrinus* was appointed and the *Jus Gentium* evolved to govern them. Then, as the old families or *gentes* gradually died away and were replaced by strangers, so the *Jus Civile* gradually died away and was replaced by the *Jus Gentium*, which the author traces into the Amalfian Tables, and the Consolato del Mare, and then through Oleron, Wisby, and the Hanseatic Code into the famous Marine Ordinances of Louis XIV and the Code du Commerce of Napoleon.

A discussion of the history of the Civil Law in England is followed by an account of its development to date in France, Germany, and the Americas. Our new insular possessions are governed by the Codes of Spain, which consist, at present, of a Civil Code enacted in 1889, a Commercial Code enacted in 1886, and a Code of Procedure enacted in 1887.

Coming from history and generalities to questions of substantive law, Judge Howe deals rapidly with Persons, Property, Contracts, Successions, and Remedies, stress being laid, as it should be laid, upon Marital Rights, Contracts, and Descent and Distribution. It is to be regretted that the author, who is